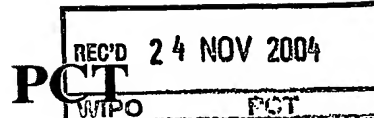


# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:  
PAUL FENSTER  
FENSTER & COMPANY, INTELLECTUAL PROPERTY  
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## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing (day/month/year) <span style="float: right; font-weight: bold;">22 NOV 2004</span>	
<b>FOR FURTHER ACTION</b> See paragraph 2 below	
Applicant's or agent's file reference <b>377/03977</b>	
International application No. <b>PCT/IL04/00344</b>	International filing date (day/month/year) <b>22 April 2004 (22.04.2004)</b>
Priority date (day/month/year) <b>22 April 2003 (22.04.2003)</b>	
International Patent Classification (IPC) or both national classification and IPC <b>IPC(7): A61H 5/00; A61B 17/22 and US Cl.: 601/4; 604/22</b>	
Applicant <b>HEALFUS LTD</b>	

1. This opinion contains indications relating to the following items:

- ☒ Box No. I      Basis of the opinion
- ☐ Box No. II      Priority
- ☐ Box No. III      Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV      Lack of unity of invention
- ☒ Box No. V      Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI      Certain documents cited
- ☒ Box No. VII      Certain defects in the international application
- ☐ Box No. VIII      Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/IL04/00344

**Box No. I Basis of this opinion**

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/IL04/00344

**Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims <u>4-7, 12-16, 22, 24, 25, 27, 30 and 31</u>	YES
	Claims <u>1-3, 8-11, 17-21, 23, 26, 28 and 32-34</u>	NO
Inventive step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-34</u>	NO
Industrial applicability (IA)	Claims <u>1-34</u>	YES
	Claims <u>NONE</u>	NO

**2. Citations and explanations:**

Claims 1-3, 8-11, 17-21, 23, 26, 28 and 32-34 lack novelty under PCT Article 33(2) as being anticipated by Rowe et al.

Rowe et al. teach an ultrasonic treatment apparatus and method including a housing (12) adapted for being filled with liquied (28) and a piezoelectric power source (20) for producing cavitation. See col. 4 lines 55-62, col. 7 lines 1-4 and 17-19. In addition, Rowe et al. discloses a sealing element (col. 8 lines 29-31). Moreover, Rowe et al. disclose removing fluids or analytes from the tissue surface.

Claims 4-7, 22, 24, 25, 27, 30 and 31 lack an inventive step under PCT Article 33(3) as being obvious over Rowe et al.

Regarding claims 4-7, 24 and 25, Rowe et al. does not specifically address an outwardly or inwardly protruding sealing element, however lacking any criticality, the shape of the sealing element would have been an obvious matter of design choice to a person of ordinary skill in the art depending upon the particular application and the body part being treated. Further regarding claim 22, although Rowe et al. disclose wherein the housing may be formed of a polymer material, an elastomer material is not explicitly addressed. However, lacking any criticality, the type of polymer or material used would have been an obvious matter of design choice to a person of ordinary skill in the art depending upon the particular application. Regarding claim 27, Rowe et al. do not explicitly set forth an opening in the form of an acute angle, however do indicate that application of the device may take place perpendicularly, parallel or at an angle to the skin (col. 10 lines 30-32). It would have therefore been obvious at the time the invention was made to a person of ordinary skill in the art to fashion the opening so as to obtain good contact with tissue when being applied at an angle.

Claims 12-16 lack an inventive step under PCT Article 33(3) as being obvious over Rowe et al. in view of Oppelt.

Regarding claims 12-16, Rowe et al. differ from the claimed invention in that a liquid inlet and outlet for circulation are not specifically addressed. Oppelt generally demonstrates that it is known to use liquid inlets and outlets for circulation and cooling of the acoustic propagation medium. See fig. 1. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to provide inlets and outlets for circulating the acoustic propagation as taught by Oppelt in the invention as taught by Rowe et al. so as to avoid unintentional heating or patient discomfort.

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/IL04/00344

**Box No. VII Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

Claims 15 and 16 are objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: In claim 15, "any of claim 13" appears incomplete. In claim 16, "any of claim 14" appears incomplete.